APPENDIX

Revenue Act of 1939, c. 247, 53 Stat. 862:

SEC. 220. COMPENSATION FOR SERVICES RENDERED FOR A PERIOD OF FIVE YEARS OR MORE.

(a) The Internal Revenue Code is amended by inserting after section 106 the following new section:

"SEC. 107. COMPENSATION FOR SERVICES RENDERED FOR A PERIOD OF FIVE YEARS OR MORE.

"In the case of compensation (a) received, for personal services rendered by an individual in his individual capacity, or as a member of a partnership, and covering a period of five calendar years or more from the beginning to the completion of such services, (b) paid (or not less than 95 per centum of which is paid) only on completion of such services, and (c) required to be included in gross income of such individual for any taxable year beginning after December 31, 1938, the tax attributable to such compensation shall not be greater than the aggregate of the taxes attributable to such compensation had it been received in equal portions in each of the years included in such period."

(b) The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938. (26 U. S. C. 1940 ed., Sec. 107.)

Surrogate's Court Act (Gilbert-Bliss, Civil Practice of New York Annotated, Book 13, Recompiled 1937):

SEC. 285. Commissions of executor, administrator, guardian or testamentary trustee.

On the settlement of the account of any executor, administrator, guardian or testamentary trustee, the surrogate must allow to him his just, reasonable and necessary expenses actually paid by him, and if he be an attorney and counselor-at-law of this state, and shall have rendered legal services in connection with his official duties, such compensation for such legal services as shall appear to the surrogate to be just and reasonable; and in addition thereto the surrogate must allow to such executor, administrator, guardian or testamentary trustee for his services in such official capacity, and if there be more than one, apportion among them according to the services rendered by them respectively.

1. For receiving and paying out all sums of money not exceeding two thousand dollars, at the rate of five per centum.

2. For receiving and paying out any additional sums not amounting to more than twenty thousand dollars, at the rate of two and one-half per centum.

3. For receiving and paying out any additional sums not exceeding twenty-eight thousand dollars at the rate of one and one-half per centum.

4. For all sums above fifty thousand dollars, at the rate of two per centum.

5. The value of any real or personal property, to be determined in such manner as the surrogate may direct, and the increment thereof, received, distributed or de-

livered, shall be considered as money in making computation of commissions. But this shall not apply in case of a specific legacy or devise.

* * * * *

7. If an executor acting as trustee, or if a trustee or guardian, is required to receive income and pay over the same, and such executor, trustee or guardian pays over said income and such executor or trustee renders an annual account to the beneficiary; and such guardian files an annual inventory as required by section one hundred ninety of this act, of all his receipts and disbursements on account thereof, he shall be allowed, and may retain, the same commission on the amount of income so accounted for as he would be allowed upon principal on a judicial settlement; if such executor, trustee or guardian does not render such annual account or inventory, nor retain his commissions upon his annual account or inventory, he shall be allowed out of income then on hand, if any, upon his judicial settlement, his commissions upon the total income from any money or property then payable to such beneficiary as unpaid income.

* * * * *

Treasury Regulations 103, promulgated under the Internal Revenue Code:

SEC. 19.107-1 [as amended by T. D. 5382, 1944-1 Cum. Bull. 194]. TAX ON COMPENSATION RECEIVED IN TAXABLE YEARS BEGINNING IN 1939 AND 1940 FOR PERSONAL SERVICES RENDERED OVER EXTENDED PERIOD.—Where, in any taxable year beginning after December 31, 1938, and before January 1,

1941, an individual receives compensation for personal services rendered by him, either in his individual capacity or as a member of a partnership, over a period of five calendar years or more from the beginning to the completion of such services, the tax attributable to the amount of such compensation shall, for the taxable year in which such compensation is received, not exceed the aggregate of the taxes attributable to such compensation had it been received in equal portions in each of the years included in the period during which the services were rendered.

With respect to compensation received in taxable years beginning after December 31, 1938, and before January 1, 1941, section 107 is applicable only where at least 95 per cent of the total compensation for such services is paid on or after their completion. It is immaterial when the personal services are rendered provided a period of at least five years elapses during the period from the beginning to the completion of the services. For example, an individual beginning his services on July 13, 1934, and completing them on July 18, 1939, meets such requirement, since the period of his services covers a period of at least five years.

* * * * *

U. S. GOVERNMENT PRINTING OFFICE: 1946